

# Exhibit 3

**Lusardi-Bennett, Annette**

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**From:** Rehn, Nathan (USANYS) [mailto:Nathan.Rehn@usdoj.gov]  
**Sent:** Friday, March 15, 2019 2:00 PM  
**To:** Lovett, William  
**Cc:** Parker, Michael (CRM); Buehler, Robert B.; Cahill, Rory; Tobin, Parker (CRM)  
**Subject:** RE: US v. Gaffey

Bill –

Our responses to each of your requests are in blue below. Please let us know if you'd like to discuss any of these issues further.

- Search terms applied to the Elder Gaffey & Paine ("EGP") server, Gaffey computer and Tremarche computer to identify documents produced on February 20<sup>th</sup>
- Search terms applied to the documents identified as responsive from the EGP server, Gaffey computer and Tremarche computer to identify potentially privileged materials
  - We don't believe the search terms are covered by Rule 16 or any other discovery obligation.
- Privilege log listing documents seized from EGP that were identified by the DOJ taint team as potentially privileged
  - We have produced and separately identified all the documents that the filter team withheld from the investigative team as "potentially privileged". Because we are not the privilege holder, we aren't in a position to produce a "privilege log" for these documents and don't believe we have any obligation to do so.
- Copies of MLAT, TIEA and other formal or informal requests for documents and information to foreign governments, entities and individuals
  - We have produced the results of any requests for documents from foreign governments, entities, and individuals. We do not believe we have any legal obligation to provide sovereign-to-sovereign diplomatic requests. If any such requests contained an affidavit of a testifying witness, we will produce such affidavits as 3500 material in the ordinary course.
- Confirmation that the government has produced all documents, including witness statements, that indicate or suggest that the assets or accounts in question belong to a third party, including Johan von der Goltz's mother, pursuant to *Brady* and Judge Berman's individual rules
  - We have and will continue to comply with our obligations under *Brady* and the Judge's individual rules. We have produced all documents that relate to the ownership of the assets or accounts in question, and are currently reviewing witness statements to determine if there are any additional statements on this topic which are subject to disclosure at this time.
- Identification of seized documents that the government intends on using in its case-in-chief
  - Because of the volume of discovery in this case, we are willing to provide such a draft of our anticipated exhibit list earlier than usual. We propose to produce a draft exhibit list six weeks prior to trial.

- Identification of the money or property obtained through the wire fraud scheme charged in Count 4 of the indictment
- Tax loss calculations and amounts, including the “income tax due and owing to the United States of America” by Johan von der Goltz, as charged in Count 3 of the indictment
  - The indictment provides a great amount of detail regarding the wire fraud and tax fraud schemes, and the discovery provides further information. We don’t think there’s any obligation to produce additional particulars about this.
- Identification of statements of co-conspirators that the government intends to introduce at trial.
  - We don’t believe we are under an obligation to produce such statements aside from our normal Rule 16 obligations, which we are complying with. During our call with you, you mentioned *Bruton*, but we still do not understand how *Bruton* applies to co-conspirator statements made in furtherance of the conspiracy.

**Thane Rehn**

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**From:** Lovett, William <william.lovett@hoganlovells.com>

**Sent:** Wednesday, March 6, 2019 4:16 PM

**To:** Paul, Sarah (USANYS) 1 <SPaul1@usa.doj.gov>

**Cc:** Rehn, Nathan (USANYS) <NRehn@usa.doj.gov>; Parker, Michael (CRM) <Michael.Parker@usdoj.gov>; Buehler, Robert B. <robert.buehler@hoganlovells.com>; Cahill, Rory <robert.buehler@hoganlovells.com>; Tobin, Parker (CRM) <Parker.Tobin@usdoj.gov>

**Subject:** US v. Gaffey

Sarah,

Thank you for taking time to speak with us today. I wanted to confirm the items that we requested and you indicated that you would follow-up on:

- Search terms applied to the Elder Gaffey & Paine (“EGP”) server, Gaffey computer and Tremarche computer to identify documents produced on February 20<sup>th</sup>
- Search terms applied to the documents identified as responsive from the EGP server, Gaffey computer and Tremarche computer to identify potentially privileged materials
- Privilege log listing documents seized from EGP that were identified by the DOJ taint team as potentially privileged
- Copies of MLAT, TIEA and other formal or informal requests for documents and information to foreign governments, entities and individuals

- Confirmation that the government has produced all documents, including witness statements, that indicate or suggest that the assets or accounts in question belong to a third party, including Johan von der Goltz's mother, pursuant to *Brady* and Judge Berman's individual rules
- Identification of seized documents that the government intends on using in its case-in-chief
- Identification of the money or property obtained through the wire fraud scheme charged in Count 4 of the indictment
- Tax loss calculations and amounts, including the "income tax due and owing to the United States of America" by Johan von der Goltz, as charged in Count 3 of the indictment
- Identification of statements of co-conspirators that the government intends to introduce at trial.

Thanks,

**Bill Lovett**

Partner

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